

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 242 OF 2005

Globe Cotyarn Private Ltd.

.. Petitioner

V/s

Union of India & Ors.

.. Respondents

Mr.D.J.Khambata with Mr.Berjis Colabawala and
Mr.Indraneel Deshmukh i/b Amarchand & Mangaldas for the
Petitioner.

Mr. S.M. Shah for Respondents Nos.1 to 3.

Mr. K.A. Setalvad i/b Mulla & Mulla Craigie Blunt and
Caroe for Respondent No.4.

CORAM : H.L. GOKHALE &
S.C. DHARMADHIKARI, JJ.

DATE : 9TH FEBRUARY 2005

P.C. :

1. Heard Mr.Khambata for the Petitioner and
Mr.Setalvad for Respondent No.4.

2. The petition seeks to challenge the order of the
2nd Appellate Committee, Government of India, Ministry
of Textiles dated 21st December 2004 which rejected the
appeal filed by the Petitioner herein. The Petitioner
was issued a show cause notice earlier that it had not

complied with the export obligation as per the quota which was allotted to him. The Petitioner was supposed to export 538 tons of cotton yarn to Europe and it had made a deposit of earnest money of some Rs.41 Lakhs. The case of the Textile Ministry was that the earnest money was deposited essentially because the quota was allotted and since the obligation was not honoured, the other party, who could have been allotted the quota, could not be allotted the same. It is for that reason that the original order was passed for not fulfilling the export obligation. This order ultimately led to the order in appeal and the order of the 2nd Appellate Committee holds in terms that since the obligation was not complied with, the order of forfeiture of the deposit will have to be maintained.

3. Mr.Khambata, learned counsel for the Petitioner, submitted that from the record it could not be said that there was any firm allotment of quota to the Petitioner. He submitted that the documents to justify the claim for export were sought from the Petitioner and the Petitioner obviously did not give the necessary documents as sought. That being so, it could not be said that the Petitioner was at fault inasmuch as there was no firm allotment of any quota. As against that,

Mr.Setalvad, learned counsel for Respondent No.4, points out that the letter dated 16th October 2003 written by Respondent No.4 begins by recording that the Petitioner has taken a very large quantity of quota, i.e. 538,028 kgs under the Ready Goods System. It is by way of collateral security that further documents were sought in that letter. Mr.Setalvad submits that if quota was not allotted, surely the next letter in reply of the Petitioners would have been that no such quota had been allotted and there is no question of making any of the documents available. That stand was not taken by the Petitioner either at that stage or at any later point of time.

4. We have noted the submissions of both the counsel. We accept the submission of Mr.Setalvad inasmuch as the party concerned, which had been told in clear terms that it had lifted a very large quota, surely would have written to Respondent No.4 Council stating that no such quota had been allotted. This has led to non-allotment of quota to some deserving party which would have got it. In the circumstances, the necessary consequences had to be suffered by the Petitioner. We do not think that any interference is required through this petition. Petition is rejected.

5. Mr.Khambata makes a request that the present status quo be continued for a further period of 4 weeks. Mr.Setalvad opposes the request. However, looking to the facts of the present case, we continue the present status quo for a further period of 4 weeks.

(H.L. GOKHALE, J.)

(S.C. DHARMADHIKARI, J.)